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**WOOD COUNTY ORDINANCE #227  
TRANSIENT MERCHANT**

**Chapter 227 .01 REGISTRATION REQUIRED**

It shall be unlawful for any transient merchant to engage in direct sales in the unincorporated areas of Wood County without being registered for that purpose as provided herein.

**Chapter 227 .02 DEFINITIONS**

**(1) Transient Merchant.** Any individual who for himself/herself or for a partnership, association, or corporation engages in the retail or wholesale sale of merchandise at any place temporarily and who does not reasonably intend to become and does not become a permanent merchant of such place. For the purpose of this section, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price to be received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state. Transient merchants shall include but not be limited to peddlers, solicitors, and telephone solicitors.

**(2) Permanent Merchant.** A merchant who for at least six months prior to the consideration of the application of this ordinance to said merchant, has continuously operated in an established place of business in the local trade area among the communities, including and bordering the place of sale, or has resided in a local trade area among the communities over six months, including and bordering the place of sale, and now does business from his/her residence.

**(3) Merchandise.** Shall include personal property of any kind and merchandise provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer. Merchandise shall also include the sale of a service of any kind.

**(4) Charitable Organization.** Shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one properting to be such.

**(5) Clerk.** Shall mean the Wood County Clerk.

## **Chapter 227 .03 EXCEPTIONS**

The following shall be exempt from all provisions of this ordinance:

- (1)** Any person delivering newspapers, fuel, dairy products, or bakery to regular customers on established routes.
- (2)** Any person selling merchandise at wholesale to dealers in such merchandise.
- (3)** Any person selling agricultural products which such person has grown.
- (4)** Any permanent merchant or employee thereof who takes orders away from the established place of business for merchandise regularly offered for sale by such merchant within this County and who delivers such merchandise in their regular course of business.
- (5)** Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.
- (6)** Any person who has had or one who represents a company who has had a prior business transaction such as a prior sale or credit arrangement with the prospective customer.
- (7)** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (8)** Any person holding a sale required by statute or by order of any court. Any person conducting a bonafide auction sale pursuant to law.
- (9)** Any employee, officer, or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under Section 440.41, Wisconsin Statutes. Any charitable organization not registered under section 440.41, Statutes or which is exempt from that statute's registration requirements shall be required to register under this ordinance.
- (10)** Any person who claims to be a permanent merchant but against whom a complaint

has been made to the Clerk, that such person is a transient merchant provided there is submitted to the Clerk proof that such person has leased for at least six months or purchased the premises from which he/she has conducted business in the market area for the six months prior to the date that the complaint was made.

**(11)** An individual licensed by an Examining Board as defined in Section 15.01(7), Wisconsin Statutes.

**(12)** This ordinance does not apply to transient merchants while doing business at special events which are under the supervision and control of a local organization or business.

#### **Chapter 227 .04 REGISTRATION**

**(1)** Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:

**A.** Complete name, permanent address, and telephone number, and temporary address if any.

**B.** Age, height, weight, and color of hair and eyes.

**C.** Name, address, and telephone number of the person, firm, association, or corporation that the transient merchant represents or is employed by or whose merchandise is being sold.

**D.** Temporary address and telephone number from which business will be conducted, if any.

**E.** The nature of business and a brief description of the merchandise and service offered.

**F.** Proposed method of delivery of merchandise, if applicable.

**G.** Make, model, and license number of any vehicle to be used by the applicant in the conduct of business.

**H.** The last three cities, villages, or towns where the applicant conducted similar business.

**I.** A place where the applicant can be contacted for at least seven days after leaving this city.

**J.** A statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchants business within the past five years, the nature of offense, and the place of business.

**(2)** Applicants shall present to the Clerk for examination:

**A.** A drivers license or some other proof of identity that may be reasonably required.

**B.** A State Certification of Examination and approval from the seller of weights and measures where the applicant's business requires use of weighing and measuring devices approved by State authorities.

**C.** A State Health Officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under State Law. Such certification shall state the applicant is apparently free from any contagious and infectious disease and shall be dated not more than 90 days prior to the date that the application is made.

**(3)** At the time the registration is returned, a fee of \$10.00 per person/transient merchant shall be paid to the Clerk to cover the cost of processing said registration.

**(4)** The applicant shall sign a statement appointing the Clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant in the event the applicant cannot after reasonable effort be served personally.

Upon payment of said fee and the signing of said statement and receipt of a satisfactory application, the Clerk shall register the applicant as a transient merchant, date the entry, and issue a permit. Said registration shall be valid for a period of 120 days from the date of entry subject to refusal or withdrawal based on cause.

## **Chapter 227 .05 INVESTIGATION**

Upon receipt of an application, the Clerk may refer it to the Wood County Sheriff's Department who may make an investigation into the facts provided or into the background of the applicant if deemed necessary.

The Clerk shall refuse to register the applicant if it is determined that the application

contains any material omission or materially- inaccurate statement or if complaints of a material nature have been received against the applicant by authorities in the last cities, villages, or towns in which the applicant conducted similar business or if the applicant was convicted of a crime, statutory violation, or ordinance violation within the past five years, the nature of which is directly related to the applicant's fitness to engage in direct selling.

#### **Chapter 227 .06 APPEAL**

A person denied registration may appeal through the appeal procedure provided by the ordinance or resolution of the Wood County Board or if none has been adopted, under the provision of State Statutes.

#### **Chapter 227 .07 REGULATION OF TRANSIENT MERCHANTS**

##### **(1) Prohibited Practices:**

**A.** A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 9:00PM and 8:00AM except by appointment, or calling at any dwelling or other place where a sign is displayed bearing the words "No peddlers, no solicitors" or words of similar meaning, or remaining on any premises after being asked to leave by the owner, occupant, or person having authority over such premises.

**B.** A transient merchant shall not misrepresent or make false,deceptive, or misleading statements concerning the quality, quantity, or character of any merchandise offered for sale, the purpose of his/her identity, or the identity of the organization he/she represents.

**C.** No transient merchant shall impede the free use of sidewalks or streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

**D.** No transient merchant shall make any loud noises or use any sound amplifying device to attract customers. If the noise produced is capable of being plainly heard outside of a 100- foot radius of the source it shall be considered a loud

noise.

**E.** No transient merchant shall allow rubbish or litter to accumulate in or around the area in which she/he is conducting business.

**(2) Disclosure Requirements:**

**A.** After the initial greeting is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of the merchandise or services he/she offered to sell.

**B.** If any sale of merchandise is made by a transient merchant, or any sales orders for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$50.00, in accordance with the procedure set forth in Section 423.203 of the Wisconsin Statutes. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Section 423.203(1) (a),(b),(c), (2) and (3) of the Wisconsin Statutes.

**C.** If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial, or no advance payment is paid, the name, address, and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and if so, the terms thereof.

**Chapter 227 .08 PENALTY**

Any person or firm adjudged in violation of any provision of this ordinance shall forfeit not less than \$20.00 nor more than \$250.00 for each violation per day, plus costs. Each violation shall constitute a separate offense.